

Remarks:

1. Objections and Rejections.

The Office Action objects to **Figs. 6 and 7** as allegedly failing to include the label: "Prior Art." Further, claims 1 and 3-5 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by Patent No. US 6,467,296 B2 to Fujii et al. ("Fujii"), and claims 1 and 2 under stand rejected under 35 U.S.C. § 102(a), as allegedly anticipated by Patent No. US 6,398,519 B2 to Fukai et al. ("Fukai"). Applicant respectfully traverses.

2. Objections to the Drawings.

The Office Action contends that "[f]igures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated." Office Action, Page 2, Lines 3-4. Applicants respectfully disagree.

Figs. 6 and 7 depict designs intended to illustrate problems with other possible configurations of the claimed invention. In other words, these figures depict unsuccessful variations on the invention claimed in the above-captioned patent application. In order to qualify as "prior art," the figures or the configuration depicted in the figures would have had to exist prior to the filing date of the above-captioned patent application and would have had to be available, or otherwise known, to the public. See 35 U.S.C. § 102. Applicants are not aware that that the configurations depicted in **Figs. 6 and 7** were available, or otherwise known, to the public, prior to the filing date.

The comparative examples depicted in **Figs. 6 and 7** were developed to show variations on the invention, which would be unsuccessful. In **Fig. 6**, the broken line drawing of shoe 12' illustrates size limitations of the shoe of the present invention, and the reactive forces depicted in the arrows of **Fig. 7** illustrate the undesirable results of insufficient contact surface between shoe 12 and contact surface 13d. Therefore, because the Examiner fails to demonstrate that **Figs. 6 and 7** satisfy the "prior art" definition of 35 U.S.C. § 102, Applicants are not obligated to admit that these figures are "Prior Art" by labeling them as such. MPEP 2129 ("A statement by an applicant during prosecution identifying the work of another as prior art is an admission that that work is available as prior art against the claims, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory

categories of 35 U.S.C. 102.”). Therefore, Applicants respectfully request that the Examiner withdraw the objections to **Figs. 6 and 7**.

3. Anticipation Rejections.

Claims 1 and 3-5 stand rejected as allegedly anticipated by Fujii, and claims 1 and 2 stand rejected as allegedly anticipated by Fukai. “A claim is anticipated if and only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [Moreover, ‘t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” MPEP 2131 (emphasis added; citations omitted). Applicants respectfully traverse.

Claim 1 currently describes:

a pair of sliding members interposed between the engaging portions and the swash plate, respectively, each of the sliding members having *a flat portion* slidably contacted with the swash plate and *a spherical portion* opposite to the flat portion, each of the engaging portions having a contact surface slidably contacted with the spherical portion, each of the contact surfaces extending to the side wall portion.

(Italics added.) The Office Action contends that each of Fujii and Fukai describes a shoe with a flat portion and a spherical portion. Office Action, Page 3, Lines 1-4 and 17-20.

After reviewing the specification of the above-referenced patent application and, in particular, spherical portion 12a and flat portion 12b of shoe 12, as depicted in **Figs. 1, 4, and 5**, Applicants maintain that the foregoing amendments, which more clearly describe spherical portion 12a and flat portion 12b of shoe 12 in claim 1, distinguish the claimed invention over Fujii and Fukai. Specifically, neither Fujii nor Fukai discloses a shoe having a cylindrical portion and a spherical portion. In view of these amendments, Applicants maintain that neither Fujii nor Fukai discloses each and every element of the claimed invention, as amended. Therefore, Applicants respectfully request that the Examiner withdraw the anticipation rejections of claims 1 and 3-5 based on Fujii and of claims 1 and 2 based on Fukai.

Alternatively, or in addition, Applicants maintain that the Office Action fails to demonstrate that Fukai discloses each and every element of the invention, as described in claim 2. The Examiner contends that “the contact surfaces [of Fukai] are connected to each other through the side wall portion . . .,” but the Examiner fails to identify the text or figures

of Fukai which allegedly support this contention. Office Action, Page 3, Lines 20-21. Therefore, Applicants also respectfully request that the Examiner withdraw the anticipation rejection of claim 2 based on Fukai.

Conclusion:

Applicants maintain that the above-captioned patent application, as amended, now is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicants' representative, we would welcome the opportunity to do so.

Respectfully submitted,

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Enclosures